

# HOUSE BILL No. 1469

## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 9-13-2-23.5; IC 9-18-8; IC 34-24-1-1; IC 35-45-6-1.

**Synopsis:** Motor vehicle chop shops. Makes it a Class C felony subject to a fine of not more than \$100,000 to operate or conduct certain activities in support of a chop shop. Establishes a minimum fine of \$5,000 for offenses related to the misuse of vehicle identification numbers, labels, or plates. Provides for the seizure of property used in a chop shop or acquired through the proceeds of a chop shop. Provides that certain offenses involving the altering or defacing of vehicle identification numbers or in support of a chop shop may be used as a basis for conviction under the racketeer influenced and corrupt organizations (RICO) law.

**Effective:** July 1, 2005.

**Reske**

January 18, 2005, read first time and referred to Committee on Courts and Criminal Code.

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Introduced

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

## HOUSE BILL No. 1469

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 9-13-2-23.5 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2005]: **Sec. 23.5. "Chop shop" means a building, a structure, or  
4 another premises used for the purpose of:**  
5       **(1) storing;**  
6       **(2) altering;**  
7       **(3) destroying;**  
8       **(4) disassembling;**  
9       **(5) dismantling;**  
10       **(6) reassembling; or**  
11       **(7) defacing, destroying, forging, falsifying, or obliterating an**  
12       **identification label or number on;**  
13       **a motor vehicle or a part of a motor vehicle obtained by theft**  
14       **(IC 35-43-4-2(a)), receiving stolen property (IC 35-43-4-2(b)),**  
15       **dealing in altered property (IC 35-43-4-2.3), or receiving stolen**  
16       **auto parts (IC 35-43-4-2.5(c)), or conspiracy to commit theft**  
17       **(IC 35-43-4-2(a)), auto theft (IC 35-43-4-2.5(b)), receiving stolen**

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property (IC 35-43-4-2(b)), dealing in altered property (IC 35-43-4-2.3), or receiving stolen auto parts (IC 35-43-4-2.5(c)) in order to obtain a profit.

SECTION 2. IC 9-18-8-10.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10.5. (a) A person who knowingly or intentionally:

- (1) owns or operates a chop shop;
- (2) transports a motor vehicle or a part of a motor vehicle to a chop shop knowing that the building, structure, or premises is a chop shop;
- (3) receives a motor vehicle or a part of a motor vehicle from a chop shop knowing that the motor vehicle or part is from a chop shop;
- (4) sells a motor vehicle or a part of a motor vehicle to a chop shop knowing that the buyer is a chop shop; or
- (5) buys a motor vehicle or a part of a motor vehicle from a chop shop knowing that the seller is a chop shop;

commits a Class C felony.

(b) Notwithstanding IC 35-50-2-6, a court that sentences a person for an offense under this section shall fine the person not more than one hundred thousand dollars (\$100,000).

SECTION 3. IC 9-18-8-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) A person who knowingly:

- (1) damages;
- (2) removes;
- (3) covers; or
- (4) alters;

an original or a special identification number commits a Class C felony.

(b) Notwithstanding IC 35-50-2-6, a court that sentences a person for an offense under this section shall fine the person at least five thousand dollars (\$5,000).

SECTION 4. IC 9-18-8-13 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 13. (a) A person who knowingly sells or offers for sale a motor vehicle that has had the original or special identification number:

- (1) destroyed;
- (2) removed;
- (3) altered;
- (4) covered; or
- (5) defaced;

commits a Class D felony.

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1       **(b) Notwithstanding IC 35-50-2-7, a court that sentences a**  
 2       **person for an offense under this section shall fine the person at**  
 3       **least five thousand dollars (\$5,000).**

4       SECTION 5. IC 9-18-8-14 IS AMENDED TO READ AS  
 5       FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. **(a)** A person who  
 6       knowingly or intentionally sells or offers for sale a motor vehicle part  
 7       that has had the identification number:

- 8           (1) destroyed;
- 9           (2) removed;
- 10          (3) altered;
- 11          (4) covered; or
- 12          (5) defaced;

13       commits a Class D felony.

14       **(b) Notwithstanding IC 35-50-2-7, a court that sentences a**  
 15       **person for an offense under this section shall fine the person at**  
 16       **least five thousand dollars (\$5,000).**

17       SECTION 6. IC 9-18-8-15 IS AMENDED TO READ AS  
 18       FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. (a) Subsection (c)  
 19       does not apply to a person who manufactures or installs a plate or label  
 20       containing an identification number:

- 21           (1) in a program authorized by a manufacturer of motor vehicles  
 22           or motor vehicle parts; or
- 23           (2) with permission granted by the bureau under this chapter.

24       (b) As used in this section, "identification number" means a set of  
 25       numbers, letters, or numbers and letters that is assigned to a motor  
 26       vehicle or motor vehicle part:

- 27           (1) by a manufacturer of motor vehicles or motor vehicle parts; or
- 28           (2) by a governmental entity in Indiana or another state to replace  
 29           a destroyed, a removed, an altered, or a defaced set of numbers,  
 30           letters, or numbers and letters assigned by a manufacturer of  
 31           motor vehicles or motor vehicle parts.

32       (c) A person who knowingly or intentionally possesses a plate or  
 33       label that:

- 34           (1) contains an identification number; and
- 35           (2) is not attached to the motor vehicle or motor vehicle part to  
 36           which the identification number was assigned by a manufacturer  
 37           of motor vehicles or motor vehicle parts or a governmental entity;

38       commits a Class D felony.

39       (d) A person who knowingly or intentionally possesses a plate or  
 40       label on which an identification number has been altered or removed  
 41       commits a Class D felony.

42       (e) A person who, with intent to defraud, possesses a plate or label

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1 containing a set of numbers, letters, or numbers and letters that  
 2 purports to be an identification number commits a Class D felony.

3 **(f) Notwithstanding IC 35-50-2-7, a court that sentences a**  
 4 **person for an offense under this section shall fine the person at**  
 5 **least five thousand dollars (\$5,000).**

6 SECTION 7. IC 34-24-1-1 IS AMENDED TO READ AS  
 7 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) The following  
 8 may be seized:

9 (1) All vehicles (as defined by IC 35-41-1), if they are used or are  
 10 intended for use by the person or persons in possession of them to  
 11 transport or in any manner to facilitate the transportation of the  
 12 following:

13 (A) A controlled substance for the purpose of committing,  
 14 attempting to commit, or conspiring to commit any of the  
 15 following:

16 (i) Dealing in or manufacturing cocaine, a narcotic drug, or  
 17 methamphetamine (IC 35-48-4-1).

18 (ii) Dealing in a schedule I, II, or III controlled substance  
 19 (IC 35-48-4-2).

20 (iii) Dealing in a schedule IV controlled substance  
 21 (IC 35-48-4-3).

22 (iv) Dealing in a schedule V controlled substance  
 23 (IC 35-48-4-4).

24 (v) Dealing in a counterfeit substance (IC 35-48-4-5).

25 (vi) Possession of cocaine, a narcotic drug, or  
 26 methamphetamine (IC 35-48-4-6).

27 (vii) Dealing in paraphernalia (IC 35-48-4-8.5).

28 (viii) Dealing in marijuana, hash oil, or hashish  
 29 (IC 35-48-4-10).

30 (B) Any stolen (IC 35-43-4-2) or converted property  
 31 (IC 35-43-4-3) if the retail or repurchase value of that property  
 32 is one hundred dollars (\$100) or more.

33 (C) Any hazardous waste in violation of IC 13-30-6-6.

34 (D) A bomb (as defined in IC 35-41-1-4.3) or weapon of mass  
 35 destruction (as defined in IC 35-41-1-29.4) used to commit,  
 36 used in an attempt to commit, or used in a conspiracy to  
 37 commit an offense under IC 35-47 as part of or in furtherance  
 38 of an act of terrorism (as defined by IC 35-41-1-26.5).

39 (2) All money, negotiable instruments, securities, weapons,  
 40 communications devices, or any property used to commit, used in  
 41 an attempt to commit, or used in a conspiracy to commit an  
 42 offense under IC 35-47 as part of or in furtherance of an act of

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terrorism or commonly used as consideration for a violation of IC 35-48-4 (other than items subject to forfeiture under IC 16-42-20-5 or IC 16-6-8.5-5.1 before its repeal):

- (A) furnished or intended to be furnished by any person in exchange for an act that is in violation of a criminal statute;
- (B) used to facilitate any violation of a criminal statute; or
- (C) traceable as proceeds of the violation of a criminal statute.

(3) Any portion of real or personal property purchased with money that is traceable as a proceed of a violation of a criminal statute.

(4) A vehicle that is used by a person to:

- (A) commit, attempt to commit, or conspire to commit;
- (B) facilitate the commission of; or
- (C) escape from the commission of;

murder (IC 35-42-1-1), kidnapping (IC 35-42-3-2), criminal confinement (IC 35-42-3-3), rape (IC 35-42-4-1), child molesting (IC 35-42-4-3), or child exploitation (IC 35-42-4-4), or an offense under IC 35-47 as part of or in furtherance of an act of terrorism.

(5) Real property owned by a person who uses it to commit any of the following as a Class A felony, a Class B felony, or a Class C felony:

- (A) Dealing in or manufacturing cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-1).
- (B) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).
- (C) Dealing in a schedule IV controlled substance (IC 35-48-4-3).
- (D) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).

(6) Equipment and recordings used by a person to commit fraud under IC 35-43-5-4(11).

(7) Recordings sold, rented, transported, or possessed by a person in violation of IC 24-4-10.

(8) Property (as defined by IC 35-41-1-23) or an enterprise (as defined by IC 35-45-6-1) that is the object of a corrupt business influence violation (IC 35-45-6-2).

(9) Unlawful telecommunications devices (as defined in IC 35-45-13-6) and plans, instructions, or publications used to commit an offense under IC 35-45-13.

(10) Any equipment used or intended for use in preparing, photographing, recording, videotaping, digitizing, printing, copying, or disseminating matter in violation of IC 35-42-4-4.

(11) Destructive devices used, possessed, transported, or sold in

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violation of IC 35-47.5.

(12) Cigarettes that are sold in violation of IC 24-3-5.2, cigarettes that a person attempts to sell in violation of IC 24-3-5.2, and other personal property owned and used by a person to facilitate a violation of IC 24-3-5.2.

(13) Tobacco products that are sold in violation of IC 24-3-5, tobacco products that a person attempts to sell in violation of IC 24-3-5, and other personal property owned and used by a person to facilitate a violation of IC 24-3-5.

**(14) Property (as defined in IC 35-41-1-23) that is:**

**(A) used in any part; or**

**(B) acquired from the proceeds;**

**of the operation of a chop shop (as defined in IC 9-13-2-23.5). Property is not subject to seizure under clause (A) unless it can be proven by a preponderance of the evidence that the owner of the property knowingly permitted the property to be used in the operation of a chop shop.**

(b) A vehicle used by any person as a common or contract carrier in the transaction of business as a common or contract carrier is not subject to seizure under this section, unless it can be proven by a preponderance of the evidence that the owner of the vehicle knowingly permitted the vehicle to be used to engage in conduct that subjects it to seizure under subsection (a).

(c) Equipment under subsection (a)(10) may not be seized unless it can be proven by a preponderance of the evidence that the owner of the equipment knowingly permitted the equipment to be used to engage in conduct that subjects it to seizure under subsection (a)(10).

(d) Money, negotiable instruments, securities, weapons, communications devices, or any property commonly used as consideration for a violation of IC 35-48-4 found near or on a person who is committing, attempting to commit, or conspiring to commit any of the following offenses shall be admitted into evidence in an action under this chapter as prima facie evidence that the money, negotiable instrument, security, or other thing of value is property that has been used or was to have been used to facilitate the violation of a criminal statute or is the proceeds of the violation of a criminal statute:

(1) IC 35-48-4-1 (dealing in or manufacturing cocaine, a narcotic drug, or methamphetamine).

(2) IC 35-48-4-2 (dealing in a schedule I, II, or III controlled substance).

(3) IC 35-48-4-3 (dealing in a schedule IV controlled substance).

(4) IC 35-48-4-4 (dealing in a schedule V controlled substance)

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as a Class B felony.

(5) IC 35-48-4-6 (possession of cocaine, a narcotic drug, or methamphetamine) as a Class A felony, Class B felony, or Class C felony.

(6) IC 35-48-4-10 (dealing in marijuana, hash oil, or hashish) as a Class C felony.

SECTION 8. IC 35-45-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. As used in this chapter:

"Documentary material" means any document, drawing, photograph, recording, or other tangible item containing compiled data from which information can be either obtained or translated into a usable form.

"Enterprise" means:

- (1) a sole proprietorship, corporation, limited liability company, partnership, business trust, or governmental entity; or
- (2) a union, an association, or a group, whether a legal entity or merely associated in fact.

"Pattern of racketeering activity" means engaging in at least two (2) incidents of racketeering activity that have the same or similar intent, result, accomplice, victim, or method of commission, or that are otherwise interrelated by distinguishing characteristics that are not isolated incidents. However, the incidents are a pattern of racketeering activity only if at least one (1) of the incidents occurred after August 31, 1980, and if the last of the incidents occurred within five (5) years after a prior incident of racketeering activity.

"Racketeering activity" means to commit, to attempt to commit, to conspire to commit a violation of, or aiding and abetting in a violation of any of the following:

- (1) A provision of IC 23-2-1, or of a rule or order issued under IC 23-2-1.
- (2) A violation of IC 35-45-9.
- (3) A violation of IC 35-47.
- (4) A violation of IC 35-49-3.
- (5) Murder (IC 35-42-1-1).
- (6) Battery as a Class C felony (IC 35-42-2-1).
- (7) Kidnapping (IC 35-42-3-2).
- (8) Child exploitation (IC 35-42-4-4).
- (9) Robbery (IC 35-42-5-1).
- (10) Carjacking (IC 35-42-5-2).
- (11) Arson (IC 35-43-1-1).
- (12) Burglary (IC 35-43-2-1).
- (13) Theft (IC 35-43-4-2).

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- 1 (14) Receiving stolen property (IC 35-43-4-2).
- 2 (15) Forgery (IC 35-43-5-2).
- 3 (16) Fraud (IC 35-43-5-4(1) through IC 35-43-5-4(9)).
- 4 (17) Bribery (IC 35-44-1-1).
- 5 (18) Official misconduct (IC 35-44-1-2).
- 6 (19) Conflict of interest (IC 35-44-1-3).
- 7 (20) Perjury (IC 35-44-2-1).
- 8 (21) Obstruction of justice (IC 35-44-3-4).
- 9 (22) Intimidation (IC 35-45-2-1).
- 10 (23) Promoting prostitution (IC 35-45-4-4).
- 11 (24) Promoting professional gambling (IC 35-45-5-4).
- 12 (25) Dealing in or manufacturing cocaine, a narcotic drug, or
- 13 methamphetamine (IC 35-48-4-1).
- 14 (26) Dealing in a schedule I, II, or III controlled substance
- 15 (IC 35-48-4-2).
- 16 (27) Dealing in a schedule IV controlled substance
- 17 (IC 35-48-4-3).
- 18 (28) Dealing in a schedule V controlled substance (IC 35-48-4-4).
- 19 (29) Dealing in marijuana, hash oil, or hashish (IC 35-48-4-10).
- 20 (30) Money laundering (IC 35-45-15-5).
- 21 (31) A violation of IC 35-47.5-5.
- 22 **(32) A violation of IC 9-18-8-10.5.**
- 23 **(33) A violation of IC 9-18-8-12.**
- 24 **(34) A violation of IC 9-18-8-13.**
- 25 **(35) A violation of IC 9-18-8-14.**
- 26 **(36) A violation of IC 9-18-8-15.**
- 27 SECTION 9. [EFFECTIVE JULY 1, 2005] (a) IC 9-18-8-10.5, as
- 28 added by this act, and IC 9-18-8-12, IC 9-18-8-13, IC 9-18-8-14,
- 29 and IC 9-18-8-15, all as amended by this act, apply only to crimes
- 30 committed after June 30, 2005.
- 31 (b) IC 35-45-6-1, as amended by this act, applies only to a crime
- 32 committed under IC 35-45-6-2 after June 30, 2005.

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